

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LAC COURTE OREILLES BAND OF
LAKE SUPERIOR CHIPPEWA
INDIANS OF WISCONSIN, *et al.*,

Plaintiffs,

v.

Case No. 18-CV-992-JDP

TONY EVERS, GOVERNOR OF THE
STATE OF WISCONSIN, *et al.*,

Defendants.

**DEFENDANTS TOWN OF MERCER AND PAUL CARLSON'S
LIMITED OBJECTION TO PLAINTIFFS' MOTION TO DISMISS TOWN OF
MERCER AND PAUL CARLSON**

Defendants Town of Mercer and its Assessor, Paul Carlson, by their legal counsel, MUNICIPAL LAW & LITIGATION GROUP, S.C., submit the following limited objection to Plaintiffs' Motion to Dismiss Defendant Town of Mercer and Paul Carlson in this action. Said Defendants' objection is limited in that they wish to be dismissed from this action; however, they object to that portion of Plaintiffs' motion seeking dismissal without prejudice.

The dismissal of the Town and its Assessor should be with prejudice for the following reasons:

1. Plaintiffs did not conduct a proper investigation prior to naming the Town and its Assessor as defendants in this action or Plaintiffs would have easily confirmed the fact that no part of the Lac du Flambeau Reservation (or any other Reservation) is within the Town of Mercer.

Consequently, no provision of the 1854 Treaty could ever apply to the Town or its Assessor.

2. Further, there will never be any lands within the Town of Mercer that will be subject to the provisions of the 1854 Treaty. Consequently, the claims in this action will never be possible against the Town and its Assessor.
3. Finally, even after the Town and its Assessor informed Plaintiffs' counsel of Plaintiffs' error in naming said Defendants in this action, Plaintiffs continued to insist that the Town and its Assessor respond to Plaintiffs' interrogatories, requests for admissions and requests for production of documents, notwithstanding Plaintiffs' ability to easily verify Plaintiffs' error via public records or by simply contacting the Lac du Flambeau Tribe's officials for confirmation.

The Town and its Assessor request that the Court dismiss them from this action, with prejudice. The Town and its Assessor do not seek the imposition of costs in order to eliminate further delay and to permit the Court to reach the primary issue in controversy, including, but not limited to, whether all remaining Towns and Assessors ought to be dismissed from the action.

The Town of Mercer and its Assessor, Paul Carlson, do not seek a hearing on this objection or Plaintiffs' said motion.

Dated at Waukesha, Wisconsin, this 4th day of December 2019.

MUNICIPAL LAW & LITIGATION GROUP, S.C.
Attorneys for Town of Bass Lake, Town of
Hayward, Town of Sanborn, Town of White River,
Town of Gingles, Town of Mercer, Town of
Ashland, Scott Zillmer, Michael Schnautz, Claude
Riglemon, Associated Appraisal Consultants, Inc.,
Paul Carlson and William Metzinger, Defendants.

(Electronically signed)

By: s/ REMZY D. BITAR

REMZY D. BITAR

State Bar No. 1038340

R. VALJON ANDERSON

State Bar No. 1003893

SAMANTHA R. SCHMID

State Bar No. 1096315

730 North Grand Avenue

Waukesha, WI 53186

T: (262) 548-1340

F: (262) 548-9211

E: rbitar@ammr.net

vanderson@ammr.net

sschmid@ammr.net